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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/720,828 | 03/01/2001 | Jacques Theze | 201859US0PCT | 7712 |

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EXAMINER

MERTZ, PREMA MARIA

ART UNIT PAPER NUMBER

1646

DATE MAILED: 09/10/2002 13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/720,828

Applicant(s)

Theze et al.

Examiner

Prema Mertz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Aug 1, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-25 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

1. This application is a 371 of PCT/IB99/01424. For applications filed under 371, PCT rules for lack of unity apply.

2. This application contains inventions or groups of inventions which are not so linked as to form a single inventive concept. Under PCT Rule 13 the following combinations of claims of different categories are permissible and restriction to one of the following combinations is required:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group 1. Claims 1-4, are drawn to an antibody which binds to a peptide of amino acid sequence of SEQ ID NO:2.

Group 2. Claims 1-4, are drawn to an antibody which binds to a peptide of amino acid sequence of SEQ ID NO:4.

Group 3. Claims 5, 10 are drawn to a DNA sequence encoding a peptide of SEQ ID NO:2 and a vector comprising the DNA.

Group 4. Claims 5, 10 are drawn to a DNA sequence encoding a peptide of SEQ ID NO:4 and a vector comprising the DNA.

Group 5. Claim 6 is drawn to a method of detecting in vitro the presence or activity of IL-2R using an antibody which binds to a peptide of amino acid sequence of SEQ ID NO:2.

Group 6. Claim 6 is drawn to a method of detecting in vitro the presence or activity of IL-2R using an antibody which binds to a peptide of amino acid sequence of SEQ ID NO:4.

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Group 7. Claim 7 is drawn to a method of inhibiting the activity of IL-2R using a peptide of amino acid sequence of SEQ ID NO:2.

Group 8. Claim 7 is drawn to a method of inhibiting the activity of IL-2R using a peptide of amino acid sequence of SEQ ID NO:4.

Group 9. Claim 8 is drawn to a method of inhibiting the activity of IL-2R using an antibody to a peptide of amino acid sequence of SEQ ID NO:2.

Group 10. Claim 8 is drawn to a method of inhibiting the activity of IL-2R using an antibody to a peptide of amino acid sequence of SEQ ID NO:4.

Group 11. Claims 9, 12-15, are drawn to a method of using a peptide of amino acid sequence of SEQ ID NO:2, by administering the peptide to a patient to induce the activities of IL-2.

Group 12. Claims 9, 12-15, are drawn to a method of using a peptide of amino acid sequence of SEQ ID NO:4, by administering the peptide to a patient to induce the activities of IL-2.

Group 13. Claim 11 is drawn to a method of treating a patient by using a vector comprising the DNA encoding a peptide of amino acid sequence of SEQ ID NO:2.

Group 14. Claim 11 is drawn to a method of treating a patient by using a vector comprising the DNA encoding a peptide of amino acid sequence of SEQ ID NO:4.

Group 15. Claims 16-25, are drawn to a peptide of amino acid sequence of SEQ ID NO:2.

Group 16. Claims 16-25, are drawn to a peptide of amino acid sequence of SEQ ID NO:4.

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Any change of amino acid residues at any one or more positions in a peptide sequence is considered, absent factual data to the contrary, a distinct peptide. Once one peptide sequence is selected SEQ ID NO:2 or 4), the other peptide will be withdrawn from consideration.

Pursuant to 37 C.F.R. § 1.475 (d), the ISA/US considers that where multiple products and processes are claimed, the main invention shall consist of the first invention of the category first mentioned in the claims and the first recited invention of each of the other categories related thereto. Accordingly, the main invention (Group 1) comprises the first-recited product, drawn to an antibody to a peptide of amino acid sequence of SEQ ID NO:2. Further pursuant to 37 C.F.R. § 1.475 (d), the ISA/US considers that any feature which the subsequently recited products and methods share with the main invention does not constitute a special technical feature within the meaning of PCT Rule 13.2 and that each of such products and methods accordingly defines a separate invention.

Groups 1-16 are drawn to products and methods different in design and structure, which do not share the same or a corresponding special technical feature which define the contribution of each invention. Since these special technical features are not shared by each product, and since the common features do not establish an advance over the prior art, the inventions of Groups I-16 do not form a single inventive concept within the meaning of Rule 13.2.

A national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept. If multiple products, processes of manufacture or uses are claimed, the first invention of the category first mentioned in the claims of the application

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will be considered as the main invention in the claims, see PCT article 17(3) (a) and 1.476 (c), 37 C.F.R. 1.475(d). Group 1 will be the main invention. After that, all other products and methods will be broken out as separate groups (see 37 CFR 1.475(d)).

Inventions 1-4 are independent and distinct, each from the other, because they are products which possess characteristic differences in structure and function and each has an independent utility, that is distinct for each invention which cannot be exchanged. The polynucleotides of inventions 3-4 can be used to make hybridization probes or can be used in gene therapy as well as in the production of the specific protein of interest. The antibodies of inventions I-2 can be used to obtain the polynucleotides of Groups 1-2, respectively, and can also be used in diagnostics, e.g. as a probe in immunoassays.

Inventions 5-16 are independent and distinct, each from the other, because the methods are practiced with materially different process steps for materially different purposes and each method requires a non-coextensive search because of different starting materials, process steps and goals.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 C.F.R. 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any

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amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R.

§ 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).


Advisory Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prema Mertz whose telephone number is (703) 308-4229. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30PM (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler, can be reached on (703) 308-6564.

Official papers filed by fax should be directed to (703) 308-4227. Faxed draft or informal communications with the examiner should be directed to (703) 308-0294.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.


Prema Mertz Ph.D.
Primary Examiner
Art Unit 1646
August 26, 2002